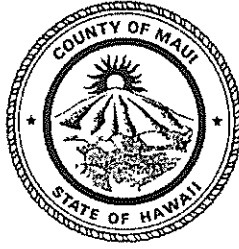


LANCE HOLTER  
Chairman

WARREN SHIBUYA  
Vice-Chairman



COUNTY OF MAUI  
**BOARD OF VARIANCES AND APPEALS**

KATHLEEN ACKS  
Board Member

UWE SHULZ  
Board Member

HARJINDER AJMANI  
Board Member

JAMES SHEFTE  
Board Member

RANDALL ENDO  
Board Member

WILLIAM KAMAI  
Board Member

**AMENDED VARIANCE AND APPEAL APPLICATIONS PROCEDURES**

**TITLE 19**  
**INTERM DISTRICTS**

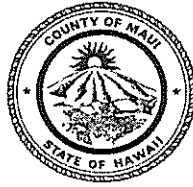
Pursuant to §12-801-18(c), Rules of Practice and Procedure for the Board of Variances and Appeals, at its regularly scheduled meeting on May 11, 2006, the Board determined that the following number of copies be submitted to the Department of Planning, for all applications for variances, appeals, contested cases, and other related pleadings/motions.

DESCRIPTION		COPIES
<b>Variance Applications</b> (Titles 12, 16, 18 and 19)		1 original + 25
<b>Appeal Applications</b> (Notices of Appeal) (Titles 12, 13, 16, 18 and 19)		1 original + 25
<b>Contested Cases:</b>	Pleadings	1 original + 3
	Proposed Findings of Fact, Conclusions of Law, Decision and Order	1 original + 3
	Hearing Officer's Report and Recommendations	1 original + 3
	Exceptions to the Hearing Officer's Report	1 original + 25
	Support of Hearing Officer's Report	1 original + 25
<b>All Other Pleadings/Motions</b> (Outside of Contested Cases)		1 original + 25

ALAN M. ARAKAWA  
Mayor

MICHAEL W. FOLEY  
Director

DON COUCH  
Deputy Director



COUNTY OF MAUI  
DEPARTMENT OF PLANNING

**VARIANCE APPLICATION REQUIREMENTS**  
**TITLE 19**  
**INTERIM DISTRICTS**

Pursuant to §12-801-67, Rules of Practice and Procedure of the Board of Variances and Appeals (BVA Rules), and Maui County Code (MCC), §19.520.020, the following will be required for initiation of an application for a variance.

1. Completed application form **(25 copies)** (Form 1);
2. Filing fee (see Fee Schedule, Table A) payable to *County of Maui, Director of Finance*;
3. One (1) copy of the "Notice of Application for a Variance" with the location map attached (Form 2);
4. One (1) copy of the affidavit certifying that the "Notice of Application for a Variance" (with Exhibits "A" and "B" attached) was mailed to all adjacent owners and lessees and those directly across the street from the subject property. *All notices shall be mailed by certified mail, return receipt requested* (Form 3);
5. One (1) copy of a list by tax map key of all adjacent owners and lessees and those directly across the street from the subject property. The list shall be compiled from the latest records at the Real Property Tax Section of the County of Maui's Department of Finance at the time of filing;
6. One (1) copy of documents which identify the owner of the subject property. If the applicant is a lessee, submit copy of recorded lease document with at least an unexpired term of five years from the date of filing;
7. One (1) copy of a notarized written authorization from the owner for the application (if the applicant is not the owner);
8. Dated photographs of the site or structure which relate to the variance request. Photographs shall be mounted on 8-1/2" x 11" sheets of paper. **(25 copies)**
9. One (1) copy of all previously approved building permits and notices of warning and/or violation for the subject property. (If applicable) [Reduced to 8.5 x 11 inch sheet(s) of paper]
10. Plans, stamped, prepared by, or under the supervision of a licensed engineer, surveyor,

or architect, if applicable. **(25 copies)** The plans shall be drawn to scale which shows (if applicable):

- a. The property lines and easements, with dimensions and area calculations, of the subject property;
  - b. Location, size, spacing, setbacks, and dimensions of all existing and proposed buildings, structures, and improvements;
  - c. The building elevations, sections, and floor plan and site sections which clearly define the character of the development;
  - d. The existing and proposed landscaping plans which show open spaces, plantings, and trees;
  - e. The existing streets which access the property and all proposed roads and parking areas, with dimensions;
  - f. The shoreline, shoreline setback lines, stream, and other setback lines;
  - g. All topographic information which show existing features and conditions and any proposed grading.
11. A location map identifying the site, adjacent roadways, and identifying landmarks. **(25 copies)** (Reduced to a 8.5 x 11 inch sheet of paper);
  12. Description of the existing and proposed floor area, parking, and loading calculations and areas of the subject property, if appropriate

## **VARIANCE STANDARDS**

### **TITLE 19**

#### **INTERIM DISTRICTS**

Pursuant to §12-801-72, BVA Rules and MCC, §19.02.050(B), variances from the provisions of MCC, Title 19.02 may be granted by the Board of Variances and Appeals (Board) should the Board find the following

1. Strict enforcement of any provisions of this article would involve practical difficulty or unnecessary hardship;
2. Desirable relief may be granted without being detrimental to the public interest, convenience and welfare.

Pursuant to MCC, §19.02.050(C), when a variance is sought to change one nonconforming use to another nonconforming use, where the structure and/or lot area are not structurally altered or enlarged, the provisions of this section as to notice and hearing may be waived at Board's discretion.

**IMPORTANT:** Should your variance be approved, you may be required to provide a certificate of liability insurance coverage (up to \$1,000,000.00), which names the County of Maui as an additional named insured, insuring and defending the applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this variance.

## **VARIANCE PROCEDURES AND PUBLIC HEARING REQUIREMENTS**

### **TITLE 19**

#### **INTERIM DISTRICTS**

Pursuant to §§12-801-77 and 12-801-78, BVA Rules, and MCC, §§19.02.050(D), 19.520.030 and 19.520.050, the following requirements must be met:

1. Within ten (10) days after the receipt of the variance application, the Planning Director will schedule a public hearing date with the Board, provided that the application is determined to be complete. If the application is deemed incomplete, the application may be returned, with a statement identifying the reasons for which the application was deemed to be incomplete.
2. Not more than forty-five (45) calendar days after the date upon which an application has been determined to be complete, the Planning Director, shall prepare and transmit written staff and recommendation reports to the Board, which includes, but which is not limited to, the filed application, an analysis of the application as it relates to the provisions of MCC, Title 19, and the Planning Director's recommendation to the Board to either grant, grant subject to conditions, or deny the application for a variance.
3. Not less than thirty (30) days prior to the public hearing date, the Planning Director will publish a notice of the date, time, place and subject matter of the public hearing in the Maui News
4. Not less than thirty (30) calendar days prior to the public hearing date, the applicant shall give notice by certified mail, return receipt requested, of the date, time, place, and subject matter of the public hearing, using the "Notice of Public Hearing" prescribed by the Planning Director, to the owners and lessees of record adjacent to the subject property and shall submit any updated names and addresses of these owners and lessees derived from the return receipts received on the notices of application previously mailed to these owners and lessees.
5. Not less than ten (10) business days prior to the date of the public hearing, the applicant shall submit all certified mail receipts received for the certified mail sent out (mounted on 8.5 X 11 inch sheets of paper).
6. The applicant shall publish a copy of the "Notice of Public Hearing", prescribed by the Planning Director, once per week for three consecutive weeks prior to the public hearing date in the Maui News. The intervals between the public hearing notices shall be not less than six (6) days. Upon completion of the published notice, the Applicant shall submit written verification that the required notice has been fulfilled.
7. Not less than six (6) business days prior to the date of the public hearing, the Planning Director shall transmit the staff and recommendation reports to the applicant, interested persons, and other appropriate county or state agencies.
8. Any action of the Board, whether granting or denying the variance, shall be referred to the Maui County Council ("Council") for its approval. The Council may override any action of the Board and either grant or deny the variance, by an affirmative vote of at least five of its members.

**VARIANCE APPLICATION**  
(TO BE TYPED OR PRINTED)

Applicant's Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

Applicant's interest, if not owner: \_\_\_\_\_

Owner's Name: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Owner's Mailing Address: \_\_\_\_\_

Project Name: \_\_\_\_\_ TMK: \_\_\_\_\_

Street Address: \_\_\_\_\_

Applicable Ordinance(s), Rule(s), or Regulation(s) and Section(s) in question: \_\_\_\_\_

Description of request (include existing uses and uses for which this application is being filed):

### VARIANCE JUSTIFICATION

1. Strict enforcement of any provisions of this article would involve practical difficulty or unnecessary hardship.

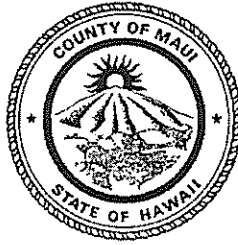
[illegible]

2. Desirable relief may be granted without being detrimental to the public interest, convenience and welfare.

[illegible]

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

LANCE HOLTER  
Chairman  
WARREN SHIBUYA  
Vice-Chairman



COUNTY OF MAUI  
BOARD OF VARIANCES AND APPEALS

KATHLEEN ACKS  
Board Member  
UWE SHULZ  
Board Member  
HARJINDER AJMANI  
Board Member  
JAMES SHEFTE  
Board Member  
RANDALL ENDO  
Board Member  
WILLIAM KAMAI  
Board Member

**NOTICE OF APPLICATION FOR A VARIANCE**

To: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned will apply to the County of Maui, Board of Variances and Appeals for a variance affecting the following real property:

PROJECT NAME: \_\_\_\_\_

PROJECT ADDRESS: \_\_\_\_\_

TAX MAP KEY: \_\_\_\_\_

THE REQUEST WILL BE RELATIVE TO THE FOLLOWING: \_\_\_\_\_  
\_\_\_\_\_

APPLICABLE ORDINANCE(S): \_\_\_\_\_

DESCRIPTION OF REQUEST INCLUDING THE EXISTING AND PROPOSED USES FOR WHICH THE APPLICATION WAS FILED: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(FORM 2)



Information relative to this application is available for review at the Department of Planning, 250 South High Street, Wailuku, Maui, Hawaii. Inquiries may be made in person, at the Department's Zoning Administration and Enforcement Division, by telephone at (808) 270-7253, or by e-mail, at [planning@co.maui.hi.us](mailto:planning@co.maui.hi.us).

The date, time and place of the public hearing will be published at least thirty (30) days, as well as three (3) consecutive weeks, prior to the date of the hearing.

All testimony pertaining to this request should be submitted in writing to the Department of Planning, 250 South High Street, Wailuku, Maui, Hawaii 96793, or presented in person at the time of the public hearing.

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APPLICANT'S NAME (PLEASE PRINT)

---

APPLICANT'S SIGNATURE

---

MAILING ADDRESS

---

TELEPHONE NUMBER

Enclosure (Location map)

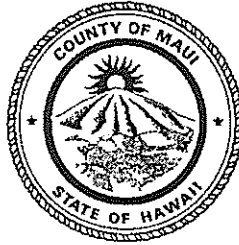
(FORM 2)

**(LOCATION MAP)**

**(FORM 2)**

LANCE HOLTER  
Chairman

WARREN SHIBUYA  
Vice-Chairman



COUNTY OF MAUI  
**BOARD OF VARIANCES AND APPEALS**

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Board Member

UWE SHULZ  
Board Member

HARJINDER AJMANI  
Board Member

JAMES SHEFTE  
Board Member

RANDALL ENDO  
Board Member

WILLIAM KAMAI  
Board Member

**NOTARIZED AFFIDAVIT OF MAILING OF NOTICE OF APPLICATION**

\_\_\_\_\_, being first duly sworn on oath, deposes and says that:

1. Affiant is the applicant for a \_\_\_\_\_ variance for land situated at \_\_\_\_\_; and identified for real property tax purposes as TMK: \_\_\_\_\_.
2. Affiant did on \_\_\_\_\_, 2006, deposit in the United States mail, by certified mail, return receipt requested, post paid, a copy of a **NOTICE OF APPLICATION FOR A VARIANCE**, which is attached hereto as "**EXHIBIT A**" and made a part hereof, addressed to each of the persons identified in the **LISTING OF RECORDED OWNERS AND LESSEES** identified as "**EXHIBIT B**" attached hereto and made a part hereof.

Further affiant sayeth naught:

\_\_\_\_\_  
APPLICANT'S SIGNATURE

STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF MAUI        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me personally  
appeared \_\_\_\_\_  
\_\_\_\_\_ to me known to be the persons described in and  
who executed the foregoing instrument and acknowledged that they executed the same as their  
free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_

Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII        )  
                                  ) SS.  
COUNTY OF MAUI        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me personally  
appeared \_\_\_\_\_  
\_\_\_\_\_ to me known to be the persons described in and  
who executed the foregoing instrument and acknowledged that they executed the same as their  
free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_

Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII       )  
                                  ) SS.  
COUNTY OF MAUI       )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me personally  
appeared \_\_\_\_\_  
\_\_\_\_\_ to me known to be the persons described in and  
who executed the foregoing instrument and acknowledged that they executed the same as their  
free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_

Notary Public, State of Hawaii

My commission expires:

STATE OF HAWAII       )  
                                  ) SS.  
COUNTY OF MAUI       )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me personally  
appeared \_\_\_\_\_  
\_\_\_\_\_ to me known to be the persons described in and  
who executed the foregoing instrument and acknowledged that they executed the same as their  
free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_

Notary Public, State of Hawaii

My commission expires:

**(COPY OF "NOTICE OF APPLICATION FOR A VARIANCE")**

**(EXHIBIT "A")**

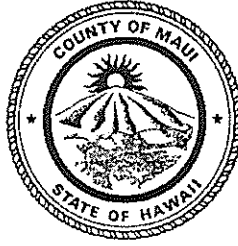
**(FORM 3)**

**(COPY OF "LIST BY TAX MAP KEY OF ALL OWNERS/LESSEES" OF PROPERTIES  
ADJACENT TO AND DIRECTLY ACROSS THE STREET  
FROM THE SUBJECT PROPERTY)**

**(EXHIBIT "B")**

**(FORM 3)**

LANCE HOLTER  
Chairman  
WARREN SHIBUYA  
Vice-Chairman



COUNTY OF MAUI  
**BOARD OF VARIANCES AND APPEALS**

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Board Member  
JAMES SHEFTE  
Board Member  
RANDALL ENDO  
Board Member  
WILLIAM KAMAI  
Board Member

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN of a public hearing to be held by the Maui County Board of Variances and Appeals at the Kalana Pakui Conference Room, First Floor, 250 South High Street, Wailuku, Maui, Hawaii, on Thursday, \_\_\_\_\_, at 1:30 p.m., or as soon thereafter as those interested may be heard to consider the following request pursuant to SECTION NO. 12-801-10(h) of the RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF VARIANCES AND APPEALS:

*(FORM TO BE PRESCRIBED BY THE PLANNING DIRECTOR)*

Information relative to the above application is available for review at the Planning Department's office located at 250 South High Street, Wailuku, Maui, Hawaii.

Those persons requesting special accommodations, due to disabilities, please call the Maui Planning Department at 270-7253 (Maui) or 1-800-272-0117 (from Molokai) or 1-800-272-0125 (from Lanai) or notify the Maui Planning Department in writing at 250 South High Street, Wailuku, Maui, Hawaii 96793 or FAX Number 270-7634; at least six days before the scheduled meeting.

Testimonies regarding the above request may be filed in writing or faxed by 4:30 p.m. on \_\_\_\_\_, to the Planning Department, 250 South High Street, Wailuku, Maui, Hawaii 96793, or presented in person at the time of the hearing.

BOARD OF VARIANCES AND APPEALS  
By MICHAEL W. FOLEY  
Planning Director

(FORM 4)



COUNTY OF MAUI  
REVENUES - RATES, FEES AND ASSESSMENTS

ACCOUNT REVENUE SOURCE NUMBER	RATE, FEE OR ASSESSMENT	HRS NUMBER	COUNTY CODE	ORDINANCE NUMBER
----------------------------------	-------------------------	---------------	----------------	---------------------

GENERAL FUND (CONT'D)

CHARGES FOR CURRENT SERVICES (CONT'D):

Planning Department Fees      Table A - Fee Schedule (Public Hearing Required)      Title 19

Change of Zoning	Conditional Permit
Community Plan Amendment	State Boundary Amendment
Project District Zoning	BVA Variance and Appeals
County Special Use Permit	State Special Use Permit
Project Master Plan Review	Shoreline Setback Variances
Environmental Assessments (non-exempt)	Special Management Area Permits (non-exempt)

<u>Total Valuation</u>	<u>Fee</u>
\$0.00 to \$125,000	\$550
\$125,000 to \$500,000	\$550 for the first \$125,001, plus \$11 for each additional \$5,000 or fraction thereof, to and including \$500,000

Additional review required      \$165  
by changes, additions,  
revisions, time extensions  
or renewals:

\$500,001 to \$1,000,000	\$1,375 for the first \$500,001, plus \$11 for each additional \$5,000 or fraction thereof, to and including \$1,000,000
--------------------------	---

Additional review required      \$275  
by changes, additions,  
revisions, time extensions  
or renewal:

\$1,000,001 and up	\$2,475 for the first \$1,000,001, plus \$11 for each additional \$5,000 or fraction thereof, to a maximum of \$4,950
--------------------	--

Additional review required      \$550  
by changes, additions,  
revisions, time extensions  
or renewals:

## CALCULATION OF FEES

Total Valuation of Project: \$ \_\_\_\_\_

☐ \$0.00 to \$125,000 (Valuation) **\$550.00**

\*\*\*\*\*

☐ \$125,000 to \$500,000 (Valuation) **\$550.00** (First \$125,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to and including \$500,000

(Valuation) - \$125,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_

\*\*\*\*\*

☐ \$500,000 to \$1,000,000 (Valuation) **\$1,370.00** (First \$500,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to and including \$1,000,000

(Valuation) - \$500,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_

\*\*\*\*\*

☐ \$1,000,001 and up (Valuation) **\$2,475.00** (First \$1,000,001)

Plus \$11 for each additional \$5,000 or fraction thereof, to a maximum of \$4,950

(Valuation) - \$1,000,001 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ ÷ \$5,000 = \$ \_\_\_\_\_  
\$ \_\_\_\_\_ x \$11.00 = +\$ \_\_\_\_\_

**SUBTOTAL (AMOUNT DUE)** \$ \_\_\_\_\_ (Not to Exceed \$4,950)

\*\*\*\*\*

If Multiple Concurrent Permit Applications are being processed by the Planning Department at the same time, the first application shall be charged the full fee while each additional application will be charged 50% of the of the normal fee.

Permit 2: \_\_\_\_\_ \$ \_\_\_\_\_

Permit 3: \_\_\_\_\_ \$ \_\_\_\_\_

Permit 4: \_\_\_\_\_ \$ \_\_\_\_\_

\*\*\*\*\*

**TOTAL REMITTED** \$ \_\_\_\_\_